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56 UNITED STATES DISTRICT COURT  
7 NORTHERN DISTRICT OF CALIFORNIA8  
9 IN RE MARY GSCHWEND,

10 Debtor/Appellant.

No. C 12-2057 PJH  
Bankr. Case No. 06-41635 MEH  
BAP NO. NC 12-116512 ORDER TO SHOW CAUSE  
13 RE STATUS OF RECORD ON  
14 APPEAL

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15 Debtor/appellant Mary Gschwend ("Gschwend") appeals the bankruptcy court's  
16 March 6, 2012 order denying her motion to reopen her chapter 13 bankruptcy case and to  
17 allow prosecution of a contempt action against creditor Barbara G. Markus and Markus'  
18 attorney for violation of the automatic stay. The appeal was originally assigned to the Ninth  
19 Circuit Bankruptcy Appellate Panel ("BAP"), but on April 18, 2012, appellee Markus elected  
20 to have the appeal transferred to this court.21 The BAP sent a number of documents to this court with the statement of election on  
22 April 25, 2012, but the status of the record on appeal remains unclear to the court or to this  
23 court's clerk's office. This court's clerk's office has not yet received the record from either  
24 the bankruptcy court or the BAP.25 Based on the court's review of the bankruptcy court's docket in Bankr. Case No. 06-  
26 41635 MEH, it appears that the parties may have failed to perfect the record in accordance  
27 with Federal Rule of Bankruptcy Procedure 8006. Although the BAP sent this court what  
28 appears to be Gschwend's "designation of record," it does not appear that Gschwend filed

## United States District Court

For the Northern District of California

Case4:12-cv-02057-PJH Document5 Filed07/02/12 Page2 of 2

1 a designation of the record with the bankruptcy court as required by Federal Rule of  
 2 Bankruptcy Procedure ("FRBP") 8006; nor does it appear that Markus filed any designation  
 3 of the record with the bankruptcy court; or that the bankruptcy court ever transmitted the  
 4 record on appeal to the BAP.<sup>1</sup> Pursuant to FRBP 8006, the parties were required to file  
 5 their designations of the record *with the bankruptcy court* months ago.

6 This court's briefing schedule on appeal depends on the parties' perfection of the  
 7 record with the bankruptcy court and on the bankruptcy court's transmission of the record  
 8 to this court.

9 Accordingly, both parties are ORDERED to file with this court **no later than**  
 10 **Wednesday, July 11, 2012**, statements advising the court regarding the status of the  
 11 perfection of the record on appeal. If the parties have not yet filed their designations of the  
 12 record with the bankruptcy court, they should explain their failure to do so, and are  
 13 ORDERED to file the designations ***with the bankruptcy court no later than Wednesday,***  
 14 ***July 11, 2012***. If the parties fail to respond to this order and to perfect the record in  
 15 accordance with this order, the appeal will be dismissed for a failure to prosecute pursuant  
 16 to FRBP 8001.

17 To the extent this court is mistaken and the record has been perfected and is in the  
 18 possession of the bankruptcy court or the BAP, the clerk's office(s) of the bankruptcy court  
 19 and/or the BAP should transmit the record to this court's clerk's office as soon as possible  
 20 but **no later than Friday, July 13, 2012**.

21 **IT IS SO ORDERED.**

22 Dated: July 2, 2012



23  
 24 **PHYLLIS J. HAMILTON**  
 25 United States District Judge

26 cc: Ninth Circuit BAP; Honorable M. Elaine Hammond, United State Bankruptcy Court

27 \_\_\_\_\_  
 28 <sup>1</sup> The court has attached that designation of record to the instant order.

MARY-ANN GSCHWEND  
4402 MARSH ELDER COURT  
CONCORD CA 94521

925 305 0630

UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

MARY-ANN GSCHWEND  
APPELLANT  
V.

BARBARA GAIL MARKUS  
APPELLEE

REAL PARTY OF INTEREST  
ATTORNEY ELLIOTT ABRAMS +  
WIFE M. RUBY SMITH ABRAMS

BK CASE #06-41635  
CH APTER 13  
BAP CASE #NC-12-1165

**DESIGNATION OF  
RECORD ON APPEAL**

## DESIGNATION OF RECORD ON APPEAL

THE APPEALANT HEREBY DESIGNATES THE PLEADINGS, TRANSCRIPTS AND THE RECORD ON APPEAL, AS FOLLOWS:

- 1) CERTIFIED TRIAL TRANSCRIPT FROM THE CONTRA COSTA COUNTY SUPERIOR COURT
- 2) CERTIFIED SHERIFFS SALE FOLDER FROM THE SOLANO COUNTY SHERIFFS DEPARTMENT
- 3) OTHER PLEADINGS, RECORDS AND EXCERPTS, WHICH INCLUDE:
  - RECORDERS AND TITLE RECORDS
  - REGISTER OF ACTIONS
  - REAL ESTATE MARKET ANALYSIS/ PRE- SALE APPRAISAL, INCLUDING PHOTOS

THE APPELLANT ASSUMES THAT THE BANKRUPTCY FOLDER FROM THE OAKLAND BK OFFICE HAS BEEN FORWARDED TO THE BAP.

DATE 4/19/12



M. GSCHWEND, APPELLANT

Case4:12-cv-02057-PJH Document1-1 Filed04/25/12 Page3 of 3

Mary Ann Gschwend  
4402 Marsh Elder Court  
Concord, CA 94521

925-798-3282

UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

MARY-ANN GSCHWEND	)	BK CASE #06-41635
APPELLANT	)	CH CHAPTER 13
V.	)	
BARBARA GAIL MARKUS	)	PROOF
APPELLEE	)	OF
	)	SERVICE
REAL PARTY OF INTEREST	)	
ATTORNEY ELLIOTT ABRAMS +	)	
WIFE M. RUBY SMITH ABRAMS	)	
	)	

I, M. GSCHWEND, declare as follows: I am over the age of 18 years.

On 4/21/12, I served the following documents:

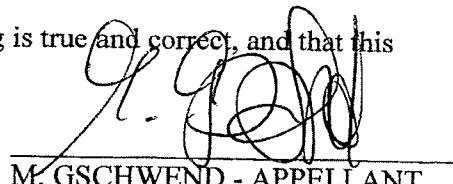
**DESIGNATION OF RECORD ON APPEAL**

by enclosing a true copy thereof in a prepaid postage sealed envelope and placing it for collection and mailing in Concord, California on the above date, addressed as follows:

Elliott Abrams  
Law Offices of Elliott Abrams  
2033 North Main Street, Suite 750  
Walnut Creek, CA 94596

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was at Concord, California.

Date: 4/21/12

  
M. GSCHWEND - APPELLANT